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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/654,786	09/04/2003	David L. Kaminsky	RSW920030125US1	5510
43168	7590	07/09/2007		
MARCIA L. DOUBET LAW FIRM PO BOX 422859 KISSIMMEE, FL 34742			EXAMINER BATES, KEVIN T	
			ART UNIT 2155	PAPER NUMBER
			MAIL DATE 07/09/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/654,786

Applicant(s)

KAMINSKY ET AL.

Examiner

Kevin Bates

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 May 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 9, 15, 28 and 29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 9, 15, 28 and 29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 5-24, 5-29.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application
- ☐ Other: _____.

Response to Amendment

This Office Action is in response to a communication made on May 25, 2007.

The Information Disclosure Statements received May 24, 2007 and May 29, 2007 have been considered.

Claims 1, 9, and 15 have been amended.

Claims 28-29 have been added.

Claims 2-8, 10-14, and 16-27 have been cancelled.

Claims 1, 9, 16, 28, and 29 are pending in this application.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 28, and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brown (2003/0055908) in view of Horvitz (2003/0046421), and in further view of Green (2004/0172455).

Regarding claims 1, 28, and 29, Brown teaches a method of using policy information in responding to arrival of instant messages (Paragraph 42), comprising steps of:

defining, by the IM user, policy information specifying criteria for responding to arrival of instant messages (Paragraph 55);

using the defined policy information, upon arrival of an instant message from an IM sender not already participating in an IM session with the IM user, and determining based on whether the user is busy or can be bothered, whether the window message should be displayed or just stored (Paragraph 60; 67).

Brown does not explicitly indicate determining whether any of a selected list of application programs are active by the IM user or when the IM window is not to be displayed, placing an icon in the buddy list next to the buddy name of sender of the message, where the icon can be activated to display the stored message.

Horvitz teaches a system for determining whether to alert the user of incoming IM messages based on a profile that is dynamically created by the system (Abstract), part of that profile is determining the current application the user is working on (Figure 34, the application in focus). With the combination of learning which user activities should not be interrupted and what application the user is now focusing on is equivalent to the list of applications that is present in the claims.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use Horvitz's teaching of a dynamic profile that monitor's user activity in Brown to allow Brown's system to respond dynamically to the user's changing activities.

Green teaches a application with a buddy list that includes using icons next to names on the buddy list that indicate when messages are stored from that user on the buddy list and when that icon is selected the unread messages are displayed for the user (Paragraph 10).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use Green's teaching of using an icon to indicate to the user messages are stored and have not yet been read by the user, in Brown's system in order to allow image indication of the unread messages while not being a distraction to the user.

Regarding claim 9, Brown teaches the method according to claim 1, wherein the policy information is specified as a set of rules (Paragraph 80).

Regarding claim 15, Brown teaches the method according to claim 14, wherein a audible indicator is generated when a new IM window is not displayed (Figure 12, element 166).

Response to Arguments

Applicant's arguments with respect to claim 1 has been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the

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shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kevin Bates whose telephone number is (571) 272-3980. The examiner can normally be reached on 9 am - 5 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Saleh Najjar can be reached on (571) 272-4006. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

KB
June 11, 2007


SALEH NAJJAR
SUPERVISORY PATENT EXAMINER